

CSD 2015 [10/17/05]

Name, Address, Telephone No. & I.D. No.

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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

Betty Jean McCarther-Morgan

BANKRUPTCY NO.

07-04817-JM

Debtor.

OBJECTION TO CLAIM AND NOTICE THEREOF

TO:

ASSET ACCEPTANCE LLC

The ☐ Trustee ☒ Debtor ☐ Chapter 13 Trustee, except to the extent already paid by the Chapter 13 trustee, objects to the allowance of Court Claim No. 2, (or if no Court number assigned, Trustee Claim No. _____) by ASSET ACCEPTANCE LLC, filed for \$ 226.84, on the grounds it:

- ☐ Duplicates Claim No. _____ filed by _____.
- ☐ The claim was filed after the expiration of the last date to file claims.
- ☒ Does not include an itemized statement of the account.
- ☐ Does not include a copy of the underlying judgment.
- ☐ Does not include a copy of the security agreement and evidence of perfection.
- ☒ Does not include a copy of the writing upon which it is based.
- ☐ Fails to assert grounds for priority.

For the following objections, attach and serve affidavits or declarations in accordance with Local Bankruptcy Rule 9013-2(a)(2):

- ☐ Appears to include interest or charges accrued after the filing of this case on _____.
- ☒ Other [State grounds and cite applicable Code section or case authority.]: _____

- 1) Claim is past the 2 and 4 year statute of limitations pursuant to CCP 337 & 339.
- 2) Claim violates RFDCPA 1788.17 and FDCPA 1692(e) & 1692(f)
- 3) Claim was previously discharged on 8/26/2002, BK No. 02-24403-KM
- 4) Asset Acceptance LLC lacks standing to file the proof of claim.

If you object to the proposed action:

1. **YOU ARE REQUIRED** to obtain a hearing date and time from the appropriate Courtroom Deputy for the judge assigned to your bankruptcy case. If a Chapter 7, 11, or 12 case, determine which deputy to call by looking at the Bankruptcy Case No. in the above caption of this notice. If the case number is followed by the letter:

-	M	-	call	(619) 557-6019	-	DEPARTMENT ONE (Room 218)
-	A	-	call	(619) 557-6594	-	DEPARTMENT TWO (Room 118)
-	H	-	call	(619) 557-6018	-	DEPARTMENT THREE (Room 129)
-	B	-	call	(619) 557-5157	-	DEPARTMENT FOUR (Room 328)

For ALL Chapter 13 cases, call (619) 557-5955.

2. **WITHIN THIRTY (30) ¹ DAYS FROM THE DATE OF SERVICE OF THIS MOTION**, you are further required to serve a copy of your DECLARATION IN OPPOSITION TO MOTION and separate REQUEST AND NOTICE OF HEARING [Local Form CSD 1184 ²] upon the undersigned moving party, together with any opposing papers. The opposing declaration shall be signed and verified in the manner prescribed by Federal Rule of Bankruptcy Procedure 9011, and the declaration shall:

- a. identify the interest of the opposing party; and
- b. state, with particularity, the grounds for the opposition.

3. **YOU MUST** file the original and one copy of the Declaration and Request and Notice of Hearing with proof of service with the Clerk of the U.S. Bankruptcy Court at 325 West "F" Street, San Diego, California 92101-6991, no later than the next business day following the date of service.

IF YOU FAIL TO SERVE YOUR "DECLARATION IN OPPOSITION TO INTENDED ACTION" AND "REQUEST AND NOTICE OF HEARING" within the 30-day¹ period provided by this notice, NO HEARING SHALL TAKE PLACE, you shall lose your opportunity for hearing, and the debtor or trustee may proceed to take the intended action.

I hereby declare under penalty of perjury that the objection set forth above is true and correct to the best of my information and belief.

DATED: October 29, 2007

/s/ ecf Michael G. Doan for Debtor
Trustee [Debtor]

CERTIFICATE OF SERVICE

I, the undersigned whose address appears below, certify:

That I am, and at all times hereinafter mentioned was, more than 18 years of age;

That on 29 day of October, I served a true copy of the within REQUEST FOR JUDICIAL NOTICE & OBJECTION TO CLAIM AND NOTICE THEREOF, PETITIONERS' SAFE HARBOR NOTICE AND MOTION FOR 9011 SANCTIONS by [describe here mode of service]

US MAIL

on the following persons [set forth name and address of each person served] and/or as checked below:

ASSET ACCEPTANCE LLC
PO BOX 2036
Warren, MI 48090-2036

[] For Chpt. 7, 11, & 12 cases: [X] For ODD numbered Chapter 13 cases: [] For EVEN numbered Chapter 13 cases:

UNITED STATES TRUSTEE
Department of Justice
402 West Broadway, Suite 600
San Diego, CA 92101

THOMAS H. BILLINGSLEA, JR., TRUSTEE
530 "B" Street, Suite. 1500
San Diego, CA 92101

DAVID L. SKELTON, TRUSTEE
525 "B" Street, Suite 1430
San Diego, CA 92101-4507

I certify under penalty of perjury that the foregoing is true and correct.

Executed on Oct. 29, 2007
(Date)

/s/ ecf Justin Killman
(Typed Name and Signature)

2850 Pio Pico Drive # D
(Address)

Carlsbad, CA 92008
(City, State, ZIP Code)

¹If you were served electronically or by mail, you have three (3) additional days to take the above-stated actions.

²You may obtain Local Form CSD 1184 from the Office of the Clerk of the U.S. Bankruptcy Court.

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6 mike@dllfirm.com

7 Attorney for Betty Jean McCarther-Morgan

8 UNITED STATES BANKRUPTCY COURT

9 Southern District of California

10 In re:

11 Betty Jean McCarther-Morgan,

12 Debtor,

) Case No 07-04817-JM

) Chapter 13

) REQUEST FOR JUDICIAL NOTICE
PURSUANT TO FRE 201(b)

13
14 Debtor, Betty Jean McCarther-Morgan, by and through her attorneys, hereby submit this
15 request that the Court take judicial notice, pursuant to FRE 201(b), of the following:

- 16 1) Proof of claim number 2 filed by Asset Acceptance LLC assignee Bank of America,
17 which lists date debt incurred as 12/09/1994.
18 2) Asset Acceptance LLC or Bank of America were not listed in the Bankruptcy Schedules.
19 3) Prior Chapter 7 filing on 5/16/2002 and discharged on 8/26/2002, case # 02-24403-KM.
20

21 Dated: October 29, 2007

22 Respectfully submitted,
DOAN, LEVINSON, & LILJEGREN, LLP

23 By: /s ecf Michael G. Doan
24 Michael G. Doan, Attorney for PLAINTIFF(S)
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